IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO: 15548 of 2004

Between:

Indian Oil CorporationLimited, A.P. State Office, 3-6-436,2nd Floor, Himayathnagar, Hyderabad,rep by Chief LPG Manager B.Vasanth Kumar s/o Sri Soorayya R/o Hyderabad

... PETITIONER

AND

The Employees Provident Fund Organisation rep by Assistant provident fund Commissioner, Sub Regional Office, VUDA Layout, NAD Post, Visakhapatnam.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or Writ particularly one in the nature of Writ of mandamus or any other appropriate Writ declaring the proceedigns No. AP/VP/CC-54/AP/20241/7A/2004 1526 dated 20-8-2004 as illegal, arbitrary and violative of principles of natural justice and consequently set aside the same.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the Respondents: MR.R.N.REDDY

The Court at the admission made the following Order:

ORDER:

Against the order dated 20-08-2004 passed by the respondent assessing the Provident Fund payable by the petitioner under Section 7-A of the Employee's Provident Funds and Miscellaneous Provisions Act, 1952, (for short 'the Act') the petitioner preferred an appeal before the Employees Provident Fund Tribunal on 27-08-2004. As the Tribunal is not functioning, the petitioner could not obtain any stay pursuant to the demand made by the respondent. Therefore, the petitioner moved this Court by way of present Writ Petition questioning the orders passed by the respondent under Sections 7-A and
7-B of the Act.

2. It is well settled proposition of law that when the statutory appeal filed by the petitioner is pending against the same order, the Writ petition for the same relief cannot be entertained. (See 1995 (1) SCC 642).

3. Having regard to the facts and circumstances of the case, on petitioner depositing 50% of the amount so demanded, within a period of eight weeks from the date of receipt of a copy of this order, all further steps pursuant to the impugned order are stayed pending disposal of the appeal. On such depositing, the appellate authority shall proceed with the same without insisting for deposit of 75% of the amount. The amount so deposited shall be subject to the result of the appeal filed by the petitioner and the same shall be kept in abeyance till the disposal of the appeal.

Subject to the above observations, the Writ Petition is disposed of. No costs.

A. **GOPAL REDDY, J**

August 31, 2004

MRR

To:

1. The Employees Provident Fund Organisation rep by Assistant provident Fund Commissioner, Sub Regional Office, VUDA Layout, NAD Post, Visakhapatnam.

2. Two C.D. Copies.